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| 10/567,473 | 02/07/2006 | Astrid Hauser | F7728(V) | 8731 |

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| EXAMINER |
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BADR, HAMID R

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| ART UNIT | PAPER NUMBER |
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1794

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10/30/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentgroupus@unilever.com

Advisory Action

Applicants' remarks after the final rejection filed 10/5/2009 is acknowledged. These remarks have been entered for appeal purposes.

Response to Arguments

Applicants' remarks/arguments have been reviewed. They are not persuasive for the following reasons.

1. Applicants argue that it is not apparent why one of ordinary skill having the Drake reference in front of him or her would feel the need to add soy hydrolysate to change the viscosity of the product.

a. Drake et al. clearly disclose that apparent viscosities of fermented milks fortified to 18% total solids with soy protein isolate were significantly higher than fermented milks with non-fat dried milk at 18% total solids. Higher protein content of soy protein isolate compared to non-fat dried milk was attributed as the reason for higher viscosities. (page 1246, col. 2, Text lines 9-15). They also disclose that sensory thickness, chalkiness, soy aroma, soy flavor and astringency increased with soy protein concentration. Drake et al. also disclose that increased fermentation times or lower final titratable acidities have been reported with soy-based yogurts, presumably due to a lack of essential nutrients for the lactic acid bacteria. (page 1246, col. 2, Text lines 1-4).

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Therefore, Drake is disclosing that fortification only with soy protein isolate will increase the viscosity significantly higher than the regular milk yogurt and that sensory thickness, chalkiness, soy aroma, soy flavor and astringency increased. This increase in apparent viscosity due to soy protein isolate and the consequent sensory changes are considered a drawback. Furthermore, lack of essential nutrients for lactic acid bacteria, due to soy protein isolate, will cause increased fermentation time and final acidity in the product. Since the knowledge available to an artisan is considered as a factor in determining the obviousness, an artisan obviously knows that some of the soyprotein isolate can be replaced with soyprotein hydrolysate to alleviate the viscosity change because due to hydrolysis, the protein hydrolysate does not affect the viscosity to the same extent as intact protein isolate.

On the other hand, Zhang et al. (R2) disclose that the incorporation of soyprotein hydrolysate in fermented milk, stimulates the growth of bacteria in the fermented milk. It is clear that the problem of increased fermentation time, due to lack of nutrients for the lactic acid bacteria as disclosed by R1, is clearly remedied by R2 by incorporating soy protein hydrolysate.

It is clear that motivation for incorporating soybean protein isolate and soybean protein hydrolysate is given by the references and/or the knowledge of an artisan. What is left to be addressed by an artisan is how to optimize the protein isolate/protein hydrolysate ratio.

The presently claimed invention would have been obvious to one of skill in the art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HAMID R. BADR whose telephone number is (571)270-3455. The examiner can normally be reached on M-F, 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571) 272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Hamid R Badr
Examiner
Art Unit 1794

/Keith D. Hendricks/
Supervisory Patent Examiner, Art Unit 1794